

**ALLOW POLITICAL PARTIES TO SUPPORT
AND OPPOSE JUDICIAL CANDIDATES**

before House State Administration
Committee - Room 455
2/27/2011

Beth Baker was endorsed by Montana Conservation Voters, Montana AFL/CIO and the Montana Trial Lawyers.

Nels Swandal was endorsed by NRA and by more than two dozen current or former Montana judges, including former State Supreme Court Chief Justice Jean Turnage and former Democratic legislator and gubernatorial candidate Dorothy Bradley.

The Montana Supreme Court appointed Dr. Janine Pease-Pretty On Top, a Democratic activist and precinct-woman from Big Horn County as their delegate to the Montana Redistricting Committee. This action was seen by many as being partisan.

Presently the only entities that are barred from supporting or opposing judicial candidates are the political parties.

In *Eu, Secretary of State of California v San Francisco County Democratic Central Committee*, 489 U.S. 214 (1989), at § 223, the Court stated:

Barring political parties from endorsing and opposing candidates not only burdens their freedom of speech but also infringes upon their freedom of association.

In *Republican Party of Minnesota v White, Chairperson, Minnesota Board of Judicial Standards*, 536 U.S. 765 (2002), Justice Scalia, speaking for the Court, stated:

Clarity on [what impartiality is] is essential before we can decide whether impartiality is indeed a compelling state interest, and, if so, whether the announce clause is narrowly tailored to achieve it.

After fully vetting what partiality includes, Justice Scalia concluded:

The Minnesota Supreme Court's canon of judicial conduct prohibiting candidates for judicial election from announcing their views on disputed legal and political issues violates the First Amendment.

In order to allow full light on our Montana judicial elections and to avoid a challenge to the U.S. Supreme Court, we need to allow our political parties to support and oppose judicial candidates.

Please pass HB 557.